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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,571	06/17/2005	Toru Kimura	273959US26XPCT	4485
22850	7590	06/23/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
HYLTON, ROBIN ANNETTE				
ART UNIT		PAPER NUMBER		
3781				
NOTIFICATION DATE		DELIVERY MODE		
06/23/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/539,571

Applicant(s)

KIMURA ET AL.

Examiner

ROBIN HYLTON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date 7/20/05 & 4/26/07

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lid pivotally supported by a first axis and swingably supported by the second axis (in an open position) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The abstract of the disclosure is objected to because the abstract appears to be too long. Correction is required. See MPEP § 608.01(b).

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 3-69757.

The prior art document discloses a lid **3**, an arm **29** attaching the lid to a main body **2**, the arm comprising a first axis **22** and a second axis **31** for supporting the lid in pivotal and swinging movement, a regulatory member **33**, and a biasing member **24**. Wherein the lid is seen in figure 4 to extend a distance away from the axes, it is considered the second axis is disposed between a center of gravity of the lid and the first axis.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 3-69757.

Wherein JP 3-69757 is only provided in Japanese, the examiner relies upon figures 3 and 4 for disclosing the invention set forth in claims 1 and 3. Wherein it can be argued the second axis is not disposed between a center of gravity of the lid and the first axis, it would have been obvious to one of ordinary skill in the art to locate the second axis a center of gravity of the

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lid and the first axis, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Doing so allows for adequate support of the lid in an open position with respect to the body.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 3-69757 in view of CN 2425134Y.

JP 3-69757 discloses the claimed lid apparatus except for a protection member disposed between the regulatory member and the back face of the lid, the protection member being configured to absorb contact impact.

CN 2425134Y teaches it is known to provide a protection member for alleviating an impact at the time of contact between a lid plate of a well lid and a supporting ring.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a protection member to the lid of JP 3-69757 for absorbing contact impact between regulatory member and the lid. Doing so protects the lid from damage and vibration upon impact with the regulatory member.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP in view of Monti (FR 1,324,277).

JP 3-69757 discloses the claimed lid apparatus except for a bracket and bearing plate as set forth in the claim.

Monti teaches a lid apparatus having a bracket and bearing plate as set forth in claim instant claim, i.e., so the structures can be adjusted.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a bracket and bearing plate adjustable in relative positions and

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fixed to each other to the apparatus of JP 3-69757. Doing so allows for relative and inhibited movement of the lid as necessary.

10. Claims 2, 8, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 3-69757 in view of JP 59-59568.

JP 3-69757 discloses a container apparatus substantially as claimed. See figures 3 and 4 in particular. The lid is seen in figure 4 to extend a distance away from the axes, it is considered the second axis is disposed between a center of gravity of the lid and the first axis. Wherein it can be argued the second axis is not disposed between a center of gravity of the lid and the first axis, it would have been obvious to one of ordinary skill in the art to locate the second axis a center of gravity of the lid and the first axis, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Doing so allows for adequate support of the lid in an open position with respect to the body. JP 3-69757 is silent regarding a vacuum exhaust section.

JP 59-59568 teaches it is known to provide a container apparatus with a vacuum exhaust section.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a vacuum exhaust section to the container apparatus of JP 3-69757. Doing so allow air to be exhausted from the container body.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 2 above, and further in view of CN 2425134Y.

JP 3-69757 as modified discloses the claimed container apparatus except for a protection member disposed between the regulatory member and the back face of the lid, the protection member being configured to absorb contact impact.

CN 2425134Y teaches it is known to provide a protection member for alleviating an impact at the time of contact between a lid plate of a well lid and a supporting ring.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a protection member to the lid of JP 3-69757 for absorbing contact impact between regulatory member and the lid. Doing so protects the lid from damage and vibration upon impact with the regulatory member.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 2 above, and further in view of Monti (FR 1,324,277).

JP 3-69757 as modified discloses the claimed container apparatus except for a bracket and bearing plate as set forth in the claim.

Monti teaches a lid apparatus having a bracket and bearing plate as set forth in claim instant claim, i.e., so the structures can be adjusted.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a bracket and bearing plate adjustable in relative positions and fixed to each other to the apparatus of JP 3-69757. Doing so allows for relative and inhibited movement of the lid as necessary.

Conclusion

13. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any

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applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art disclosures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

15. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

16. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status

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information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

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